

## § 831.1212

## 5 CFR Ch. I (1–15 Edition)

the medical examination showing that the disability recurred, but not earlier than 1 year before the date the request for reinstatement is received by OPM.

(e) When a disability annuitant whose earning capacity has been restored but who is not reemployed in a position in which he or she is subject to civil service retirement coverage, and who (except in the case of a National Guard technician whose annuity was awarded under 5 U.S.C. 8337(h)), has not recovered from the disability for which retired, loses his or her earning capacity, as determined by OPM, before reaching age 62, OPM will reinstate the disability annuity. The reinstated annuity is payable from January 1 of the year following the calendar year in which earning capacity was lost. Earning capacity is lost if, during any calendar year, the individual's income from wages or self-employment or both is less than 80 percent of the current rate of basic pay of the position held at retirement.

(f) A reinstated annuity is the same type as the original annuity and is paid at the rate of annuity to which the annuitant was entitled on the date his or her disability annuity was last discontinued.

(g) Reinstatement of the disability annuity ends the right to any other annuity based on the same service, unless the annuitant makes a written election to receive the other annuity instead of the disability annuity.

(h) When OPM reinstates an employee's disability annuity, the agency must offset the employee's pay by the amount of annuity allocable to the period of employment, unless the annuitant is exempted from this requirement under the provisions of 5 U.S.C. 8344(i). The offset begins on the date of OPM's determination of eligibility for reinstatement. OPM must reduce any retroactive payment of annuity for a period of employment with an agency before that date by the amount of pay earned during that period.

(i) When an individual's annuity is terminated upon reemployment (subject to subchapter III of chapter 83, title 5, United States Code), OPM must determine the individual's future annuity rights under the law in effect at the date of his or her subsequent separation.

If, upon separation from such reemployment, the individual does not meet the eligibility requirements under subchapter III of chapter 83, title 5, United States Code, for title to annuity based on such separation, OPM will resume payment of the terminated annuity at the rate last payable, unless payment is otherwise barred.

[58 FR 12498, Sept. 4, 1993. Redesignated at 59 FR 27214, May 26, 1994]

### § 831.1212 Administrative review of OPM decisions.

The right to administrative review of an initial decision of OPM is set forth in § 831.109 of this part. The right to appeal a final decision of OPM to the Merit Systems Protection Board is set forth in § 831.110 of this part.

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## Subpart M—Collection of Debts

SOURCE: 50 FR 34664, Aug. 27, 1985, unless otherwise noted.

### § 831.1301 Purpose.

This subpart prescribes procedures to be followed by the Office of Personnel Management (OPM), which are consistent with the Federal Claims Collection Standards (FCCS) (Chapter II of title 4, Code of Federal Regulations), in the collection of debts owed to the Civil Service Retirement and Disability Fund.

### § 831.1302 Scope.

This subpart covers the collection of debts due the Civil Service Retirement and Disability Fund, with the exception of the collection of court-imposed judgments, amounts referred to the Department of Justice because of fraud, and amounts collected from back pay awards in accordance with § 550.805(e)(2) of this chapter.

### § 831.1303 Definitions.

In this subpart—

*Additional charges* means interest, penalties, and/or administrative costs owed on a debt.

*Annuitant* means a retired employee or Member of Congress, spouse, widower, or child receiving recurring benefits under the provisions of subchapter III, chapter 83, of title 5, United States Code.

*Compromise* is an adjustment of the total amount of the debt to be collected based upon the considerations established by the FCCS (4 CFR part 103).

*Consumer reporting agency* has the same meaning provided in 31 U.S.C. 3701(a)(3).

*Debt* means a payment of benefits to an individual in the absence of entitlement or in excess of the amount to which an individual is properly entitled.

*Delinquent* has the same meaning provided in 4 CFR 101.2(b).

*FCCS* means the Federal Claims Collection Standards (Chapter II of title 4, Code of Federal Regulations).

*Offset* means to withhold the amount of a debt, or a portion of that amount, from one or more payments due the debtor. Offset also means the amount withheld in this manner.

*Reconsideration* means the process of reexamining an individual's liability for a debt based on—

- (1) Proper application of law and regulation; and
- (2) Correctness of the mathematical computation.

*Repayment schedule* means the amount of each payment and number of payments to be made to liquidate the debt as determined by OPM.

*Retirement fund* means the Civil Service Retirement and Disability Fund.

*Voluntary repayment agreement* means an alternative to offset that is agreed to by OPM and includes a repayment schedule.

*Waiver* is a decision not to recover a debt under authority of 5 U.S.C. 8346(b).

#### §831.1304 Processing.

(a) *Notice.* Except as provided in §831.1305, OPM will, before starting collection, tell the debtor in writing—

- (1) The reason for and the amount of the debt;
- (2) The date on which the full payment is due;
- (3) OPM's policy on interest, penalties, and administrative charges;

(4) If payment in full would create financial hardship to the debtor and offset is available, the types of payment(s) to be offset, the repayment schedule, the right to request an adjustment in the repayment schedule and the right to request a voluntary repayment agreement in lieu of offset;

(5) The individual's right to inspect and/or receive a copy of the Government's records relating to the debt;

(6) The method and time period (30 calendar days) for requesting reconsideration, waiver, and/or compromise and, in the case of offset, an adjustment to the repayment schedule;

(7) The standards used by OPM for determining entitlement to waiver and compromise;

(8) The right to a hearing by the Merit Systems Protection Board on a waiver request (if OPM's waiver decision finds the individual liable) in accordance with paragraph (c)(2) of this section; and

(9) The fact that a timely filing of a request for reconsideration, waiver and/or compromise, or a later timely appeal of a waiver denial to the Merit Systems Protection Board, will stop collection proceedings, unless (i) failure to take the offset would substantially prejudice the Government's ability to collect the debt; and (ii) the time before the payment is to be made does not reasonably permit the completion of these procedures.

(b) *Requests for reconsideration, waiver, and/or compromise.* (1) If a request for reconsideration, waiver and/or compromise is returned to us by mail, it must be postmarked within 30 calendar days of the date of the notice detailed in paragraph (a) of this section. If a request for reconsideration, waiver, and/or compromise is hand delivered, it must be received within 30 calendar days of the date of the notice detailed in paragraph (a) of this section. OPM may extend the 30 day time limit for filing when individuals can prove that they: (i) Were not notified of the time limit and were not otherwise aware of it; or (ii) were prevented by circumstances beyond their control from making the request within the time limit.